

# PUBLIC RECORDS, OPEN MEETINGS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

## OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

### Public Records, Open Meetings. Legislative Constitutional Amendment.

Measure amends Constitution to:

- Provide right of public access to meetings of government bodies and writings of government officials.
- Provide that statutes and rules furthering public access shall be broadly construed, or narrowly construed if limiting access.
- Require future statutes and rules limiting access to contain findings justifying necessity of those limitations.
- Preserve constitutional rights including rights of privacy, due process, equal protection; expressly preserves existing constitutional and statutory limitations restricting access to certain meetings and records of government bodies and officials, including law enforcement and prosecution records.

Exempts Legislature's records and meetings.

### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Potential minor annual state and local government costs to make additional information available to the public.

### Final Votes Cast by the Legislature on SCA 1 (Proposition 59)

Assembly:	Ayes 78	Noes 0
Senate:	Ayes 34	Noes 0

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

The State Constitution generally does not address the public's access to government information. California, however, has a number of state statutes that provide for the public's access to government information, including documents and meetings.

**Access to Government Documents.** There are two basic laws that provide for the public's access to government documents:

- **The California Public Records Act** establishes the right of every person to inspect and obtain copies of state and local government documents. The act requires state and local agencies to establish written guidelines for public access to documents and to post these guidelines at their offices.

- **The Legislative Open Records Act** provides that the public may inspect legislative records. The act also requires legislative committees to maintain documents related to the history of legislation.

**Access to Government Meetings.** There are several laws that provide for the public's access to government meetings:

- **The Ralph M. Brown Act** governs meetings of legislative bodies of local agencies. The act requires local legislative bodies to provide public notice of agenda items and to hold meetings in an open forum.
- **The Bagley-Keene Open Meeting Act** requires that meetings of state bodies be conducted openly and that documents related to a subject of discussion at a public meeting be made available for inspection.

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### ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

- *The Grunsky-Burton Open Meeting Act* requires that meetings of the Legislature be open to the public and that all persons be allowed to attend the meetings.

***Some Information Exempt From Disclosure.*** While these laws provide for public access to a significant amount of information, they also allow some information to be kept private. Many of the exclusions are provided in the interest of protecting the privacy of members of the public. For instance, medical testing records are exempt from disclosure. Other exemptions are provided for legal and confidential matters. For instance, governments are allowed to hold closed meetings when considering personnel matters or conferring with legal counsel.

#### PROPOSAL

This measure adds to the State Constitution the requirement that meetings of public bodies and writings of public officials and agencies be open to public scrutiny. The measure also requires that statutes or other types of governmental decisions, including those already in effect, be broadly interpreted to further the people's right to access government information. The measure, however, still exempts some information from disclosure, such

as law enforcement records. Under the measure, future governmental actions that limit the right of access would have to demonstrate the need for that restriction.

The measure does not directly require any specific information to be made available to the public. It does, however, create a constitutional right for the public to access government information. As a result, a government entity would have to demonstrate to a somewhat greater extent than under current law why information requested by the public should be kept private. Over time, this change could result in additional government documents being available to the public.

#### FISCAL EFFECT

Government entities incur some costs in complying with the public's request for documents. Entities can charge individuals requesting this information a fee for the cost of photocopying documents. These fees, however, do not cover all costs, such as staff time to retrieve the documents. By potentially increasing the amount of government information required to be made public, the measure could result in some minor annual costs to state and local governments.